

STORAGE NAME: h1221a.ric.doc
DATE: April 16, 2001

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE
COUNCIL FOR READY INFRASTRUCTURE
ANALYSIS**

BILL #: HB 1221
RELATING TO: Water Resources
SPONSOR(S): Representative Cantens

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) NATURAL RESOURCES & ENVIRONMENTAL PROTECTION YEAS 11 NAYS 0
 - (2) GENERAL GOVERNMENT APPROPRIATIONS YEAS 13 NAYS 0
 - (3) COUNCIL FOR READY INFRASTRUCTURE YEAS 17 NAYS 0
 - (4)
 - (5)
-

I. SUMMARY:

The bill makes several changes to chapter 373, Florida Statutes (F.S.), relating to the financial and administrative authority of the water management districts (WMDs). The bill allows the WMDs:

- o To solicit grants, donations, or services that they are currently authorized to accept;
- o To establish the duration of "works of the district" permits;
- o To lease existing communications towers or similar structures they own or may acquire;
- o To obtain and enforce patents, copyrights, and trademarks on their work products;
- o To suspend contractors from doing business with the district if the contractor materially breaches a contract with the district; and
- o To contractually limit the liability of a vendor.

The bill provides that the act shall take effect upon becoming a law.

On March 26, 2001, the Committee on Natural Resources & Environmental Protection adopted an amendment removing the provision that would allow the WMDs to establish the duration of "works of the district" permits.

On April 4, 2001, the General Government Appropriations Committee adopted an amendment that gives WMDs the rulemaking authority to administer proceedings for suspension of contractors for breach of contract.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Section 373.083, F.S., authorizes the governing boards of the water management districts (WMDs) to accept donations, grants of funds, or services from both public and private sources.

The governing boards of the WMDs are authorized by s. 373.086, F.S., to adopt projects and works, including, but not limited to, structures, impoundments, wells, streams, and other watercourses, together with appurtenant facilities and accompanying lands as "works of the district" (WODs). For example, the extensive works and lands constituting the Central and Southern Florida Project have been adopted by the South Florida WMD as WODs. Works of the district do not necessarily include facilities or structures; the governing board of the Suwannee River WMD has adopted the floodways and floodplains of the Suwannee, Santa Fe, Alapaha, Aucilla, and Withlacoochee Rivers as WODs. Section 373.085, F.S., authorizes the governing boards of the WMDs to regulate activities on or adjacent to, or that affect, WODs.

The governing boards of the WMDs, pursuant to s. 373.093, F.S., may lease any lands or interest in land to which the district has acquired title or may acquire title, as long as the lease is consistent with the purpose for which the lands or interest was acquired.

Water management districts may, in the course of performing their water management responsibilities, produce unique work products, such as software or scientific instrumentation. Unlike the state's universities, the WMDs are not authorized to obtain patents, copyrights, or trademarks on their work products.

Under s. 287.042(1)(b), F.S., the Department of Management Services may remove from its vendor list any source of supply that fails to fulfill any of its duties specified in a contract with the state. Section 672.719, F.S., provides that damages resulting from a breach of contract may be limited or altered by agreement of the parties involved.

C. EFFECT OF PROPOSED CHANGES:

The bill authorizes the governing boards of the WMDs to solicit donations, grants of funds, or services from both public and private sources, that they are authorized to accept under existing law (s. 373.083, F.S.). It also authorizes the governing boards to establish the duration of WODs permits. The bill authorizes the governing boards to not only lease lands or interest in lands, but to also lease existing communications towers or similar structures it owns or may acquire. The bill

allows the WMDs to obtain and enforce patents, copyrights, and trademarks on district work products. Finally, the bill allows the WMDs to suspend a contractor from doing business with the district if the contractor materially breaches its contract with the district, and to contractually limit a vendor's liability.

The bill provides that the act shall take effect upon becoming law.

D. SECTION-BY-SECTION ANALYSIS:

Please see "Effect of Proposed Changes".

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. Provisions of the bill could allow WMDs to raise additional revenues.

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to expend funds, nor does it require counties or municipalities to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not require counties or municipalities to expend funds, nor does it require counties or municipalities to take an action requiring the expenditure of funds.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

The bill authorizes the WMDs to adopt rules related to suspend a contractor from doing business with the district if such contractor materially breaches its contract with the district.

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 26, 2001, the Committee on Natural Resources & Environmental Protection adopted an amendment to the bill, removing a provision that authorizes the governing boards of the WMDs to establish the duration of "works of the district" permits. The Committee then passed the bill, as amended.

On April 4, 2001, the General Government Appropriations Committee adopted an amendment that removes prescribed steps for suspension of contractors from doing work with the water management district for breach of contract with the district. The amendment replaces the prescribed steps with language that gives the WMDs rulemaking authority to administer proceedings for suspension of contractors for breach of contract.

VII. SIGNATURES:

COMMITTEE ON NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION:

Prepared by:

Staff Director:

W. Ray Scott

Wayne Kiger

AS REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:

Staff Director:

Lynn Dixon

Lynn Dixon

AS FURTHER REVISED BY THE COUNCIL FOR READY INFRASTRUCTURE:

Prepared by:

Council Director:

C. Scott Jenkins

Thomas J. Randle

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